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DEC 07 2006

OFFICE OF PETITIONS

In re Application of :
Alain Painchaud :
Application No. 10/711,662 : DECISION ON PETITION
Filed: September 29, 2004 :
Inventor: Alain Painchaud :

This is a decision on the petition filed in the above-identified application.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is \$1,500. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated (**\$750**). See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Petitioner should also note that the proper reply to a final Office action is the filing of one of the following: (1) a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)); (2) an amendment that *prima facie* places the application in condition for allowance; (3) a Request for Continued Examination (RCE) and submission (37 CFR 1.114); or (4) the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2)(b). In the meantime, the argument filed on June 25, 2006 will be referred to the Examiner to determine whether the argument presented would overcome the rejections set

out in the final Office action and place the application in *prima facie* condition for allowance. If the Examiner determines that the argument presented would not *prima facie* place this application in condition for allowance, then a proper reply, as noted above, would have to be submitted in order to effect revival of this application. From an initial reading of the argument presented, it does not appear that the reply of June 25, 2006 would *prima facie* place the application in condition for allowance.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions